

**DUBLIN CITY COUNCIL
ADMINISTRATIVE COMMITTEE OF THE WHOLE
Tuesday, June 24, 2014
6:00 p.m. – Council Chambers**

AGENDA

- Call to Order
- Charter Review Process
- Adjourn to Executive Session
 - Personnel matters (to consider the appointment of a public official)
- Reconvene
- Adjourn

MEMORANDUM

To: Administrative Committee of Council
Marsha Grigsby, City Manager
Michelle Crandall, Assistant City Manager

From: Stephen J. Smith, Law Director
Jennifer D. Readler, Assistant Law Director

Date: June 18, 2014

Re: Charter Review Process

- **Background**

We have been asked to provide the Committee with a summary of the Charter review process and any recommendations we may have as to updating the Charter.

- **Charter Amendment Process**

Any amendments to the Charter must be submitted to the voters for approval. Attached to this memorandum is a more detailed discussion we previously provided City Council regarding the amendment process. There is no requirement to appoint a Charter Commission for the review of amendments to the Dublin Charter. During the last review of the Charter (1994-96), Dublin did create a Commission to review the amendments because substantial amendments were being considered. If substantial amendments are contemplated once again, we would recommend the formation of a Commission or some type of committee to review the revisions. If, however, the contemplated revisions are minor, such review may be better handled by Council itself.

We have reviewed the Charter with staff and do not recommend any revisions to the Charter at this time.

- **Amendments to Rules of Order**

Additionally, if Council believes any sections of the Charter are vague and require some clarification to guide interpretation, there are other ways to address such concerns short of a Charter amendment. Council could revise its Rules of Order or pass legislation that addresses the issues presented by the relevant Charter section. As long as the new legislation or rule does not directly conflict with a Charter section, the legislation or rule would be valid.

We only have one suggested addition to the Rules of Order. There have been some questions in the past regarding the number of votes required to pass legislation and we have determined that four affirmative votes of Council are required. We would recommend revising

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the Rules of Order to clarify this issue. Attached is a full copy of the Rules of Order with the proposed amendment, but the new language reads as follows:

10.04 An affirmative vote of four (4) members shall be necessary to pass any question, unless otherwise provided by the Charter.

It should also be noted that the Charter has a section dealing with public meetings that states that all meetings shall be open to the public, except as otherwise provided by state law and as may be further provided by Council by ordinance for matters that are declared in such ordinance to require confidentiality. The State open meetings law was amended in 2013 to provide for economic development project discussion as an additional basis for an executive session. We do not recommend any revisions to the Charter or Rules on this topic, but wanted to point out this development.

Please do not hesitate to contact our office if you have any questions regarding this process.

MEMORANDUM

To: Dublin City Council
Marsha Grigsby, City Manager

From: Stephen J. Smith, Law Director
Jennifer D. Readler, Assistant Law Director

Date: May 29, 2013

Re: Charter Review Process

I. CHARTER GOVERNMENTS IN OHIO

Section 7, Article XVIII of the Ohio Constitution permits municipalities to frame, adopt and amend charters. In the absence of a charter, the form of government is controlled by the statutes set forth in Ohio Revised Code Title 7. One way to view charters is that they act like a constitution for the municipality. Adopting a charter gives a municipality more flexibility and allows laws to be tailored to the specific needs of a given community. The charter provides the framework for municipal government for many years to come. Dublin has had a charter in place since 1979.

The charter will address the form of government, but does not seek to address in detail all administrative and legislative policy matters. Instead, it usually leaves the municipality with the flexibility to meet the needs of the community.

Although the adoption of a charter provides greater flexibility to a municipality, a charter does not grant unlimited powers to a municipality. If a matter is of statewide concern, a charter cannot abrogate state law. Some examples of matters held to be of statewide concern include sewage treatment, detachment of territory, and prevailing wage law.

II. DUBLIN CHARTER REVIEW LANGUAGE

Section 10.3 of the Dublin Charter provides that it "may be amended or revised by the electors as provided by the Constitution of the State of Ohio." This memorandum will discuss the mechanics of this amendment process.

III. CHARTER AMENDMENT PROCESS

- A. The procedure for amending a charter is governed by Sections 8 and 9, Article XVIII of the Ohio Constitution. Amendments may be proposed by a two-thirds vote of City Council or by a petition signed by ten percent of the City's electors.

- B. If Council would pursue charter amendments, the ordinance must state that the proposed amendments shall be submitted to the voters at the next regular municipal election if the election is to be held between 60 and 120 days from the date of passage of the ordinance. If a regular municipal election is not held within that time frame, a special election must be scheduled.
- C. The Clerk of Council must submit 1 (one) copy of the ordinance setting forth the proposed charter amendments to the Franklin County Board of Elections at least 75 days prior to the election.
- D. Dublin must notify the voters of the proposed amendments by either mailing a copy of the proposed amendments to the voters or publishing the proposed amendments in a local newspaper at least once a week for two consecutive weeks.
 - 1. Notification by Mail:
 - a. The Clerk must "mail a copy of the proposed charter amendment to each voter whose name appears on the poll or registration books of the last regular or general election held therein." R.C. 731.211(A).
 - b. It is not sufficient to label the mailings to "Resident." *Oppenheimer v. Madeira* (Hamilton App. 1981), 1 App. 3d 44, 439 N.E.2d 440.
 - c. The deadline for mailing is 30 days prior to the date of elections.
 - 2. Notification by Publication:
 - a. The full text of the proposed charter amendment may be published once a week for not less than two consecutive weeks in a newspaper published in the municipal corporation or as provided in Section 7.16 of the Revised Code, with the first publication being at least fifteen days prior to the election at which the amendment is to be submitted to the electors. R.C. 731.211(B). Ohio Revised Code Section 7.16 requires the first publication of the charter amendment to include the full text of the charter amendment, but authorizes the second publication to be in an abbreviated form provided that it is also included on the newspaper's internet website, if the paper has one.
- E. If the voters approve the charter amendments, the board of elections must certify a copy of the charter amendments to the Secretary of State of Ohio within 30 days after the election.

IV. CHARTER COMMISSION

There is no requirement to appoint a Charter Commission for the review of amendments to the Dublin Charter. During the last review of the Charter (1994-96), Dublin did create a

Commission to review the amendments because substantial amendments were being considered. If substantial amendments are contemplated once again, we would recommend the formation of a Commission or some type of committee to review the revisions. If, however, the contemplated revisions are minor, such review may be better handled by Council itself.

Additionally, if Council believes any sections of the Charter are vague and require some clarification to guide interpretation, there are other ways to address such concerns short of a charter amendment. Council could revise its Rules of Order or pass legislation that addresses the issues presented by the relevant charter section. As long as the new legislation or rule does not directly conflict with a Charter section, the legislation or rule would be valid.

Please do not hesitate to contact our office if you have any questions regarding this process.

COUNCIL RULES OF ORDER

1. DEFINITION OF TERMS

- 1.01 Charter** – the Revised Charter of Dublin, Ohio effective July 4, 1996, and its amendments, if any;
- 1.02 Member** – a member of Council;
- 1.03 Chair** – the presiding officer of Council who is the Mayor under the Charter;
- 1.04 Clerk** – the Clerk of Council;
- 1.05 Meeting** – any regular, alternate or special meeting of Council;
- 1.06 Quorum** – a majority of the members elected to Council;
- 1.07 Standing Committee** – a permanent committee created by Council resolution, usually composed of three members; and
- 1.08 Ad Hoc Committee** – a temporary committee created by Council motion, usually composed of two members.

2. APPLICATION OF RULES

- 2.01** Except as otherwise provided by the Revised Charter or laws of the State of Ohio, the functioning and proceedings of Council shall be governed by these Council Rules of Order.
- 2.02** On matters involving parliamentary procedure not provided for in these Council Rules of Order, the Clerk's latest revised edition of "Robert's Rules of Order" shall be referenced by the Mayor as persuasive, rather than binding, and the Mayor's determination shall be final.
- 2.03** The Law Director shall act as parliamentarian and, when applicable, shall interpret "Robert's Rules of Order" for Council.
- 2.04** These Rules of Order shall not be altered except by a vote of a majority of all members of Council, and at a regular or alternate meeting. The proposition to make an amendment shall be in the form of a resolution, and shall be submitted and read to Council at a meeting preceding the one at which it is acted upon. These Rules of Order may be suspended, when appropriate, by a majority vote of all Council members.

3. COUNCIL COMMITTEES

- 3.01** Ad hoc committees may be created by Council to review, study and make recommendations on specific matters. The Mayor shall appoint each ad hoc committee, give it a charge, and establish the time frame within which the committee is to report to Council. When an ad hoc committee has completed its charge, the existence of the committee shall terminate.

- 3.02** Council, from time to time, may establish new standing committees, assign the functions of standing committees, add, combine, expand, contract or eliminate certain standing committees as it deems necessary for the proper functioning of Council.
- 3.03** Membership and Chairship of each standing committee shall be determined by consensus, taking into consideration the preferences, willingness, and experience of each Council member.
- 3.04** The Standing Committees of Council have been established as the Administrative Committee, Community Development Committee, Finance Committee, and Public Services Committee.
- a. The Administrative Committee shall review issues relating to Council employee evaluations; City personnel policies, compensation and benefits; board and commission appointments; strategic planning; goals setting; policy process; marketing and communications; and Council procedures and operations.
 - b. The Community Development Committee shall review issues relating to economic development, growth management and transportation systems.
 - c. The Finance Committee shall review issues relating to general taxation policy; hotel/motel tax grant applications; operating budgets; capital improvement programs; and fees.
 - d. The Public Services Committee shall review issues relating to police, fire and emergency services; traffic and related issues; public health and human services; parks and recreation; utilities, telecommunications and energy; and engineering.
- 3.05** The Clerk of Council shall provide for the electronic recordings of all ad hoc and standing committee meetings and will maintain these recordings as the permanent record of these meetings.

4. COUNCIL MEETINGS

- 4.01** Regular meetings shall be held on the second and fourth Mondays of the month or on such dates as are otherwise approved on the yearly meeting calendar or by a majority vote of City Council. Meetings shall be convened in the Council Chamber of the City of Dublin at 7:00 p.m., or in an alternate public place within the City of Dublin corporate limits, provided that a public notice shall be posted on the entrance doors of the Municipal Building 24 hours prior to the meeting time. In the event that a regular

meeting date of the Council coincides with a legal holiday, or presents a conflict for a majority of members, Council may establish an alternate date, or cancel the regular meeting. The Clerk shall ensure that any cancellation, alternate date or alternate location is published on the City's website or other generally accepted medium, as designated by Council.

- 4.02** The Mayor and City Manager shall confer regularly regarding the agenda for Council meetings, after which the Mayor shall determine the agenda. Upon concurrence that a meeting may become unduly lengthy due to the content and/or number of items on an agenda, the Mayor may divide the agenda and defer items to the following regular meeting, or call a special meeting.
- 4.03** Special meetings are governed by the Revised Charter, Article III, Section 3.06(b).
- 4.04** Members shall be present during all regular and special meetings. Excused absences shall be granted by the Council when a member is ill, there is sickness or death in a member's family, when a member is absent from the City, when job requirements demand immediate attention, or on special leave.

5. COUNCIL MEETING AGENDA

- 5.01** Except for emergency matters or other special matters requiring the immediate attention of Council, a listing of business to be considered by Council shall be prepared and delivered to each member at least 72 hours prior to each regular Council meeting.
- 5.02** Any person may request that a matter of business be placed on the agenda provided sufficient notice is provided either to the Mayor, City Manager or the Clerk of Council. All proposed agenda items must be delivered to the Clerk of Council prior to 10:00 a.m. on the Thursday preceding the meeting.
- 5.03** It is the responsibility of the Clerk to prepare and deliver the agenda and all supporting documentation under the general supervision and direction of the Mayor and the City Manager. All members of the City organization and members of the public are encouraged to cooperate with the Clerk in making the agenda complete and accurate. While nothing herein will prevent the introduction of new business not listed on the agenda, Council may require additional time to study any item not included on the agenda.
- 5.04** Council may, upon majority vote of its members, modify the order or contents of the agenda at a Council meeting.

6. NOTICE OF MEETINGS

6.01 Public Notice

The Clerk shall cause to be published one time in at least one newspaper of general circulation in the City a statement of the dates, times, and places of the Council meetings regularly scheduled for the calendar year. Said publication shall occur no later than the day preceding the day of the first such regular meeting for the calendar year. The Clerk of Council may use any other medium appropriate for notice of public meetings.

6.02 Public Posting

The Clerk shall also post a statement of the dates, times and places of each regular Council meeting for the calendar year at least one week prior to the first regular meeting of the calendar year. Said posting shall be done at three (3) locations set forth in Section 4.12 of the Revised Charter. The Clerk shall check at reasonable intervals to insure that this statement remains posted.

7. PUBLICATION OF MEETING AGENDAS

7.01 Media Publication

The Clerk shall make arrangements to have the “tentative” agenda for any regular, alternate or special meeting published on the City’s website or other generally accepted medium as designated by Council. The “tentative” agenda shall be that agenda which is prepared and distributed to the press/media on the Tuesday preceding a regular or an alternate meeting, or that agenda which is prepared in advance of a special meeting.

7.02 Agenda Packets for Press/Media

The Clerk shall make available a copy of the agenda for any regular, alternate or special meeting to any news organization requesting same. The agenda will include copies of new ordinances and resolutions and other materials shall be made available at the discretion of the City Manager. These agenda packets will be made available to news organizations by 4:30 p.m. on Thursday prior to regular or alternate meetings and as soon as practicable prior to special meetings. It is the responsibility of the news organization to make arrangements for pick-up of its agenda packet.

8. ORDER OF BUSINESS

The Mayor shall take the Chair at the hour appointed for the meeting of Council and shall call the meeting to order and direct the Clerk to call roll. If a quorum is present, the meeting shall continue.

The order of any regular or alternate meeting shall be as follows:

1. Call to Order
2. Executive Session, if necessary
3. Pledge of Allegiance
4. Roll Call
5. Proclamations/Special Recognition
6. Citizen Comments
7. Consent Agenda
 - a. Action of Minutes of previous meeting(s)
 - b. Correspondence
 - c. First reading of routine ordinances
 - d. Routine resolutions
 - e. Other administrative matters
8. Legislation
 - a. Tabled/postponed legislation
 - b. Public hearings/second readings/vote on ordinances
 - c. First reading of non-routine ordinances
 - d. Non-routine resolutions
9. Other Business
10. Council Committee Reports/Council Roundtable
11. Executive Session, if necessary
12. Adjournment

9. REQUEST TO SPEAK

9.01 Members' Right to Speak

- a. While each member has the right to speak, the member must request this right by addressing the Chair. Upon being recognized, the member may proceed.
- b. No member may filibuster. No member may speak for more than five (5) minutes continuously, except by leave of the Mayor. The decision by the Mayor in this matter is final. Reference to personalities shall be avoided by all speakers.
- c. A member may speak a second time on any one opportunity to speak.

- d. the Mayor shall regulate debate in any other manner that she/he deems necessary, provided that the rights of all persons to express their views are respected.
- e. By a motion duly made, seconded, and passed by a majority of members present, the Council may overrule any limitation of debate by the presiding officer and allow a member to speak for an additional five (5) minutes.

9.02 Residents/Interested Parties' Duties

Any resident or interested party desiring to address the Council shall be first recognized by the Chair. She/he shall then step to the floor microphone and state her/his name and address in an audible tone for the Clerk's record. Remarks shall be limited to the question under discussion. All provisions of 9.01 apply.

9.03 City Employee

The City Manager and any other appointed, administrative level official shall be entitled at all times to any privilege of the floor for the purpose of speaking upon any questions that pertain to their duties, responsibilities and authority. All provisions of 9.01 apply.

10. VOTING PROCEDURES

10.01 Every member present, when a question is put, shall vote unless the member has an ethical conflict of interest. Any member requesting permission to abstain may make a brief statement of the reason for making such a request. The question shall then be immediately taken without further debate.

10.02 Voting on all legislation shall be oral and in open Council. No proxy votes are permitted. When the Clerk calls roll, each member shall respond "yes," "no," "present," or "abstain." No other comment is permitted during voting. The order of voting shall rotate in a random manner.

10.03 The Mayor shall announce the results of the voting, and state whether the matter voted upon passed or failed.

10.04 An affirmative vote of four (4) members shall be necessary to pass any question, unless otherwise provided by the Charter.

10.05 No vote of a member shall be questioned. Any member so desiring may briefly comment upon the vote personally cast after the roll call and

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announcement of the result. The Mayor shall decide upon the propriety of the comments and monitor the length of same.

11. LEGISLATION PROCEDURE

11.01 The introduction, passage and amendment of ordinances and resolutions shall be governed by Article IV of the Charter and these Rules of Order. A consent agenda may be used where routine or noncontroversial items are organized apart from the rest of the agenda and approved as a group. Items are proposed for the consent agenda by the City Manager and Clerk of Council. Upon request of any Council Member, an item will be removed from the consent agenda and scheduled for consideration under the regular order of business.

The introduction, passage and amendment of ordinances and resolutions shall be governed by Article IV of the Charter.

11.02 A member may speak on any legislation; call for questions; ask for a statement of the question (which the Mayor shall render); call for a division of the questions (the Mayor shall render a decision regarding the divisibility of any question and said decision shall be subject to appeal as is a question of order); and question the City Manager. Any two members may demand the previous question.

11.03 Any member may introduce such legislation as the member deems appropriate. Legislation can be prepared and recommended by the Administration, a Standing Committee of Council, an ad hoc committee of Council, or a City Board or Commission; all such legislation must be introduced by a member.

11.04 Every motion shall be reduced to writing if the Chair or a member so requests.

11.05 When a motion is offered and seconded, it shall be transcribed and read back by the Clerk before debate. When written, it shall be read by the Clerk before debate.

11.06 After a motion has been read by the Clerk, it shall be deemed to be in Council's possession and may be withdrawn only by leave of the Council.

11.07 Ordinances and resolutions shall be read by title only unless there is an objection from one of the Council members at which time the Council shall meet the requirements of Article 4.04 of the Revised Charter.

11.08 Form of Ordinances/Resolutions

- a. All ordinances and resolutions shall continue to be written in the same format and style as was in use at the time these rules were enacted by Council. All such legislation shall be assigned according to a system that reflects the sequential order and year, e.g., 01-97.
- b. Each ordinance/resolution shall contain not more than one subject, which shall be fully described in the caption in easily understood terms.

11.09 Second Readings/Public Hearings - No motion is required on second readings. After debate has closed, the Mayor shall direct the Clerk to call the roll.

11.10 Motion to Reconsider – Any member who voted on the prevailing side may move a reconsideration of any action of the Council, provided that the motion be made not later than the next regular meeting after such action was taken. A motion to reconsider shall be in order at any time, except when a motion on some other subject is pending. A motion to reconsider being laid upon the table may be taken up and acted upon at any time. No motion to reconsider shall be made more than once on any matter or subject.

11.11 Order of Consideration of Questions – All questions shall be considered in the order in which they are made.

11.12 Motion Made – Additional Proper Motions – When a question is before Council or under debate, or a motion has been made, no other motion shall be proper, except the following and these take precedence according to the order listed:

1. to adjourn
2. to table until future stated time
3. request cessation of debate and that a vote be taken
4. to refer to a standing or ad hoc committee
5. to amend the matter under discussion
6. to postpone action for an indefinite time or to a date certain

11.13 Question Without Debate – The following questions shall be considered without debate:

1. to adjourn
2. to lie on the table
3. to take from the table
4. all questions relating to priority
5. to approve all items on the consent agenda

11.14 Motions to Postpone and Adjourn

- a. A motion to postpone (to a day certain or indefinitely) shall not again be allowed at the same reading of the ordinance or resolution under consideration.
- b. A motion to adjourn shall always be in order, but if decided in the negative, it shall not be entertained again until some motion, order, or decision has taken place.

11.15 Motion to Take from the Table – A motion to remove any matter from the table shall be in order after consideration of one question succeeding the tabling. This is not debatable. Any matter removed from the table shall not be considered or acted upon until the next or a subsequent meeting.

11.16 Motion to Strike Out – A motion to strike out and insert shall be deemed divisible, and a refusal to strike out equivalent to agreeing to the matter in the form, but shall not preclude further amendment by way of addition.

11.17 Appeal Decision of the Chair – On appeal of a decision of the Chair, no member shall speak more than once, and the Chair shall have preference.

11.18 Call to Order – If any member, in speaking or otherwise, violates the rules of Council, the Chair or any member may call her/him to order and the member so called shall cease speaking until the question of order is decided.

12. MISCELLANEOUS

12.01 Council Courtesies

No member shall privately confer while Council is in session with anyone other than a fellow member, the City Manager, the Clerk, or Law Director. Such discussions as are permitted shall be brief and shall be conducted in the tone and manner so as not to disturb the proceedings.

12.02 Confidentiality

- a. On matters where public knowledge of same could be detrimental to the City's position on legal, fiscal, property acquisition, personnel or other matters deemed by Council or the City Manager to require

confidentiality, all members shall limit and/or restrict discussion and/or dissemination of the confidential information unless and until Council or the City Manager decides such matters may be discussed publicly.

- b. No member may speak for the Council as a body unless specifically authorized to do so by Council.

12.03 Enforcement of Rules

The Mayor shall conduct all Council meetings in accordance with these rules and shall preserve order at all meetings, and shall enforce the rules of Council, either by private or public reprimand.

12.04 Violation of Rules

If any member, in speaking or otherwise, shall violate any rule of Council, the Mayor shall call the member to order. If such member is speaking when called to order, the member immediately cease speaking unless permitted to explain. The question of order shall be decided without debate, at the Mayor's discretion.

Adopted: Res. 09-96 – 6/9/97
Amended: Res. 87-08 – 1/20/09
Amended: Res. 47-09 – 10/5/09
Amended: Res. 44-11 – 9/12/11

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